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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 09-1034 JCS
Plaintiff,)	
v.)	
ZACHARY MORENO,)	[Proposed] ORDER OF DETENTION
Defendant.)	

On February 5, 2010, the parties appeared before the Court for a detention hearing. The defendant was present and represented by Federal Public Defender Shawn Halbert. Special Assistant United States Attorney Acadia Senese represented the United States.

The government requested detention, submitting that no condition or combination of conditions would reasonably assure the safety of the community.

Pretrial Services submitted a report recommending detention.

Upon consideration of the Pretrial Services report, the court file and the party proffers as discussed below, the Court finds by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.

1 The Court orders the defendant detained.

2 The present order supplements the Court's findings at the detention hearing and serves as a
3 written findings of fact and statement of reasons as required by 18 U.S.C. § 3142(I).

4 The Bail Reform Act of 1984, 18 U.S.C. §§ 3141-50, sets forth the factors which the Court
5 must consider in determining whether pretrial detention is warranted. In coming to its decision,
6 the Court has considered those factors, paraphrased below:

7 (1) the nature and seriousness of the offense charged;

8 (2) the weight of the evidence against the person;

9 (3) the history and characteristics of the person including, among other
10 considerations, employment, past conduct and criminal history, and records of
11 court appearances; and

12 (4) the nature and seriousness of the danger to any person or the community that
13 would be posed by the person's release.

14 18 U.S.C. § 3142(g).

15 Defendant Zachary Moreno is charged with violating 18 U.S.C. § 111(a)(1) (assault on a
16 peace officer) and 36 C.F.R. § 2.4(a)(1)(i) (possession of a weapon). The instant charge stems
17 from an incident on or about September 6, 2009, where the defendant is alleged to have been
18 arrested for assaulting a federal officer with an eight-inch knife.

19 In considering all of the facts and proffers presented at the hearing, the Court finds the
20 following factors among the most compelling in reaching its conclusion that no combination of
21 conditions could reasonably assure the defendant's appearance as required:

22 First, the Court finds that the defendant has a dozen or more prior failures to appear.
23 Second, the defendant violated the conditions of release previously imposed by this Court. Third,
24 given those circumstances, the additional circumstances that the defendant appears to have a
25 mental health condition, and that there are no conditions of release offered by the defendant to the
26 Court - no sureties, no half-way house, and no residential treatment facility - the Court hereby
27 orders the defendant detained.

28 These factors, among others adduced at the hearing, demonstrate by a preponderance of

1 the evidence that if released, the defendant would not appear as required.

2 Accordingly, pursuant to 18 U.S.C. § 3142(I), IT IS ORDERED THAT:

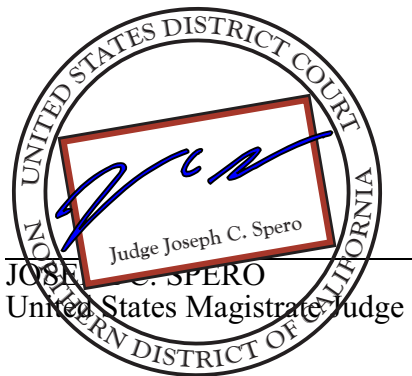
3 (1) the defendant is committed to the custody of the Attorney General for confinement in a
4 corrections facility;

5 (2) the defendant be afforded reasonable opportunity for private consultation with his
6 counsel; and,

7 (3) on order of a court of the United States or on request of an attorney for the
8 government, the person in charge of the corrections facility in which the defendant is confined
9 shall deliver the defendant to an authorized Deputy United States Marshal for the purpose of any
10 appearance in connection with a court proceeding.

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13 IT IS SO ORDERED.

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15 Dated: 02/09/10



16 JOSEPH C. SPERO
17 United States Magistrate Judge
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